

UNITED STATES DISTRICT COURT

for the

Southern District of New York

<u>WOWWEE GROUP LIMITED, WOWWEE</u>)
<u>CANADA, INC., and WOWWEE USA, INC.</u>)
)
Plaintiffs)
v.)
)
AAIWA ELECTRONIC TECHNOLOGY CO.,)
LTD., et al.,)
Defendants.)

Case No. 17-cv-7969

**DECLARATION OF
WALTER D. SANTIAGO,
JR., IN SUPPORT OF
DEFENDANTS' CROSS
MOTION TO DISMISS
PLAINTIFFS'
COMPLAINT AND
ORDER TO SHOW
CAUSE AND
OPPOSITION TO
PLAINTIFFS' ORDER TO
SHOW CAUSE**

DECLARATION OF WALTER D. SANTIAGO, JR.

I, Walter D. Santiago, Jr., hereby declare as follows:

1. I am over eighteen (18) years of age. I have never been convicted of a felony or any criminal offense involving moral turpitude, and I am fully competent to testify to the matters stated herein. I have personal knowledge of every statement made in this Declaration and such statements are true and correct.

2. Plaintiffs, by and through their counsel, filed a Complaint and Order to Show Cause against Defendants in the United States District Court for the Southern District of New York on or about October 17, 2017. *See Exhibit A.*

3. On October 17, 2017, the Honorable Robert W. Sweet, U.S.D.J., entered the following: (1) a Temporary Restraining Order ("TRO"); (2) Order to Show Cause why a Preliminary Injunction should not issue; (3) an Asset Restraining Order; (4) Order Authorizing service by electronic means; and (5) Order authorizing expedited discovery. *See Exhibit B.*

4. The aforementioned Order dated October 17, 2017, set a return date of October 25, 2017.

See id.

5. On October 18, 2017, Plaintiffs forwarded correspondence to the Court requesting to adjourn the return date to November 1, 2017, so as to allow Plaintiffs additional time to effect service on all named defendants. *See* **Exhibit C**.

6. Plaintiffs request for an adjournment was granted. *See id.*

7. On November 1, 2017, Defendants failed to appear in the instant action and, as a result, the Court entered an Order maintaining the relief granted in the October 17, 2017 Order for an additional fourteen (14) days, and adjourned the hearing date until November 15, 2017. *See* **Exhibit D**.

8. Defendants retained this firm on November 9, 2017, and this firm immediately began settlement discussions with Plaintiffs' counsel. However, counsel for Plaintiffs and Defendants have been unable to reach an amicable resolution of this matter, and, therefore, Defendants respectfully submit the within Cross Motion and Opposition requesting this Court to Dismiss Plaintiffs Complaint and Order to Show Cause pursuant to F.R.C.P 12(b)(5) or, in the alternative, to remove the temporary asset freeze.

9. China filed its objection under Article 10 of Hague Convention, which allows for service of process through alternative means such as 'postal channels' and 'judicial officers. *See* **Exhibit E**.

10. Plaintiffs have not attempted to serve Defendants through the Hague Convention, failed to make multiple queries to the Chinese Central Authority, and have failed to diligently keep the Court apprised of these efforts.

I declare under the penalty of perjury under the laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Executed on this 13th day of November 2017, in New York, New York.

By: /s/ Walter D. Santiago, Jr.

Dated: November 13, 2017